

**Ravalli County Planning Board
Meeting Minutes for July 17, 2006
7:00 p.m.
First Interstate Center, Ravalli County Fairgrounds, 100 Old Corvallis Road
Hamilton, MT 59840**

Continuation of Public Hearing
Aspen Springs (Wesmont) Major Subdivision and Eight Variance Requests

1. Call to order

Dan called the meeting to order at 7:03 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Mary Lee Bailey (present)
Dale Brown (present)
Ben Hillicoss (present)
Dan Huls (present)
JR Iman (present)
Roger Linhart (present)
Chip Pigman (present)
Les Rutledge (present)
Lori Schallenberger (present)
Gary Zebrowski (present)

Park Board Representative: Bob Cron (present)

(B) Staff

Benjamin Howell
Karen Hughes
James McCubbin
Renee Van Hoven
Jennifer De Groot

3. Amendments to the Agenda

There were none.

4. Correspondence

Karen said Staff had received correspondence, which would be the subject of an upcoming discussion.

5. Disclosure of Possible/Perceived Conflicts

Dan said that it was not necessary to repeat the conflicts already stated at previous meetings.

6. Public Hearing – Continued from July 12, 2006

(A) Aspen Springs (Wesmont) Major Subdivision and Eight Variance Requests

(i) Supplemental Legal Advice Regarding Procedure

Dan said that the Board had closed public comment at the previous hearing so that the Board could deliberate this evening. He noted that new information had arrived.

James McCubbin said that he talked with County Attorney George Corn because Staff received new written comments and information from the developer today. He noted that the developer sent it before last Wednesday's meeting, but it was lost in the mail until today and the general public has not had time to review it. He said that since some of the information was received after the public commented the first time and they have not heard this new information, he and George recommended reopening public comment. He said there is no need for repetitious testimony, but reopening public comment would allow the public to comment on the new information. He recommended extending public comment to the next meeting as well because the public was told at the previous meeting that public comment time was closed. He recommended that the developer give a short summary of the proposal and to make sure all his information was presented before public comment time began. He noted that Montana Code includes the right of public participation and the right of the public to know what is going on. He mentioned that there were agency representatives in the audience and said it would be prudent to get their comments as well. He recommended continuing the meeting to the following week.

(ii) Board Deliberation and Decision on Procedure

Gary asked James if the Board has to publicly announce that public comment is reopened.

James said since the Board is still in the continued hearing, there is no legal impediment for renewed public notice of hearing. He noted that when a date and time is set for the following meeting, that information will go the County Commissioners and will be in the Ravalli Republic's Government Calendar.

Ben said he supports opening public comment and following laws, but he said he was concerned about the practical matter of getting feedback from the Board to the developer. He noted he feels like he has heard enough reasons to turn down the subdivision or ask for a serious modification of it. He noted that the Board has a meeting Wednesday with 5 more public hearings and he does not feel prepared for it because of the time he has spent on Aspen Springs, which totals hundreds of hours. He explained that if the Board will not give feedback to the public and the developer, then he is concerned about where the Planning Department is heading with backlog.

Les motioned to continue acceptance of public comment.

JR seconded the motion.

Ben asked if the Board could have some discussion before public comment and then reopen it.

James noted there were no legal problems with that suggestion.

The Board voted unanimously to approve the motion to reopen public comment.

Dan remarked that at the first two meetings, public comment was limited to 3 minutes. He asked the Board what time restrictions they wanted to impose for this meeting.

Ben proposed that certain agency representatives, such as the Sheriff, Road Supervisor, and School Superintendent, be given unlimited time or longer than 3 minutes.

Dan asked that the public limit their comments to new information.

Ben noted that in some cases, the public will want to offer rebuttals.

James said the Board can encourage the public to speak about new information, but noted they cannot control what the public says.

Dale suggested allowing a public speaking time of 5 minutes.

Chip motioned to allow 3 minutes per person with the exception of 3-minute rule waivers, which would be individually reviewed and decided by the Board.

Gary seconded the motion.

Les said he agrees with the motion, but noted there were complaints at the previous hearing that the developer's representatives took an inordinate amount of time. He recommended putting a limit on the developer's time and only allowing new information.

The Board voted unanimously to approve Chip's motion.

Dan explained that those who testified previously can do so tonight or at the continued public hearing. He asked the public only to speak about new information.

Les motioned to allow the developer and his agents 15 minutes overall.

Ben seconded the motion.

Dan asked if the developer could have an extension if necessary.

Les said he was concerned that people would not have time for rebuttal.

Chip noted that Council feels the development team needs to get their information all out tonight, which is tough to do if their time is limited. He noted that the public would not be commenting on the entire application if the Board cuts the developer's time short.

Ben suggested that the Board could waive the time if the developer was not finished in 15 minutes.

James suggested that the Board limit rehashing of information by the developer, but leave open-ended time for new information.

Dale noted that the developer was allowed to speak for one hour and 24 minutes at the previous meeting, but the public only had 3 minutes apiece. He noted that the last couple meetings went until 11:15 and he did not want to be there all night. He recommended limiting the developer.

Les amended the motion to allow the developer only 15 minutes for a summary of the proposal.

The vote was called; the members voted (4-6) and the motion failed.

Gary asked the developer to limit old information and present new data.

(iii) Public Comment on the Subdivision and Variance Requests

Dan reiterated that the Board has decided to open public comment and the 3-minute rule applies, although time waivers can be given to the Board for review. He explained that the developer will have time to present new information and correct anything that was erroneous in the first presentation, and then the Board will allow for public comment.

Nick Kaufman asked if government agents could go first.

Dan asked if anyone at the meeting associated with local or state government wished to speak.

James noted that Staff had received additional written comment and asked the Board to accept it into the record at this time. (See Attachment B, Applicant Information Received Since July 12 Public Hearing; Attachment C, Letter from Florence-Carlton School District; Attachment D, Agency Comments Received Since July 12 Public Hearing; Attachment E, Public Comments Received Since July 12 Public Hearing; and Attachment F, Additional Public Comments Received Since the July 12 Public Hearing)

Dan explained that he personally received 2 emails, which he passed on to Staff, and which will be available later. (See Attachment G, Email from Emmett Burns and Attachment H, Email from Cheryl Harkin)

Nick Kaufman asked the Board when public comment period would be closed for good, to both the public and the applicant. He asked if the Board received mail after the end of public comment, if it would still be considered.

James explained that information received after the end of public comment would be forwarded to the County Commissioners at their meeting on the subdivision. He noted that the Commissioners would evaluate the information to see if it was relevant and credible and if it needed to go back before the Planning Board. He explained if there was any significant new information, it would require a new hearing.

Chip asked the Montana Fish Wildlife & Parks (FWP) representative about its suggestion to reconfigure the lot layout and move some lots off the ridge and draw. He noted that among the other subdivisions in the area that were also identified as

being elk habitat or winter range, the FWP did not seem as concerned. He asked about the critical nature of the northeastern corner of the subdivision.

John Vore, a biologist with FWP, said that the 28 lots furthest up the ridge were a concern because there was no development beyond these lots to the east. He said that the other subdivisions in the area were surrounded by other developments. He explained that these lots would give the most benefit to wildlife.

Gary asked Sheriff Hoffman what he thought about the proposals to provide land to the Sheriff and Fire Department. He asked if the officers could respond and man a satellite office with their current budget.

Sheriff Chris Hoffman said he hoped to have a response by mid-week. He noted that he will accept any help from any place to accomplish his mission. He commented that the offer made by Wesmont will not mitigate the issues for law enforcement. He noted that the subdivision is far from infrastructure and his department has a hard time serving the north end of the valley. He also noted that any amount of growth is a problem. He explained that under current conditions, the department is looking at lengthened response times because they need staffing increases and resources.

JR asked Sheriff Hoffman if any offer of compensation from WGM can only be used for infrastructure, not salaries or cars.

Sheriff Chris Hoffman noted that was correct. He said that the offer from Wesmont is land to share with the Fire District for a substation, but noted the current problem is manning the substation. He noted that he could not use the money for salaries and since the donation was only \$100 per lot (\$64,000 over 20 years) the money could not be used for salaries in a meaningful way.

JR asked what the Sheriff's response was to neighboring subdivisions like Gunshy Ridge.

Sheriff Chris Hoffman explained that whether this subdivision is built or not, his department is having a hard time responding to emergency calls in the north and south ends of the valley. He remarked that currently, there are many times where he can only field 2 officers per shift, which means that response times are going to be long. He noted that the crux of problem is growth in general without responding resources to deal with demand.

Les asked if there are situations when they cannot send officers to respond because of priorities elsewhere.

Sheriff Chris Hoffman said that that was unfortunately true. He noted that the deputies always respond to crimes against persons first.

Chip said that since the Sheriff is subject to Senate Bill 185 and its limitations, it does not seem like there is a good solution. He noted that even if the developer throws money into impact fees, that gesture will not help the Sheriff fund more deputies.

Sheriff Chris Hoffman said that as it is written, Senate Bill 185 is unusable to him. He noted that law enforcement looks at capital improvements as rolling stock and

vehicles. He observed that his department has a fleet crisis and most of the cars need to be replaced in the next year to year and a half. He noted that vehicles were not covered in the Senate Bill. He commented that at some point land will not be available and impact fees will stop.

Chip suggested that the community needs to find new funding for the Sheriff's Department since impact fees will not be the solution.

Sheriff Chris Hoffman said it will not be as written. He said that he has to find revenue in our tax base to pay for demanded services. He noted that it costs money to respond to the current demand.

Ben said he responded to the triple homicide in Florence a couple years ago. He noted that when he arrived, one lady still had signs of life so they called the Sheriff. He explained that a deputy did not arrive until 35 to 45 minutes later and the backup requested did not arrive until an hour had passed. He said that he did everything he could to support raising the budget and taxes. He noted that the County really needs to increase the budget for officers and patrol cars.

Sheriff Chris Hoffman said that was not tonight's discussion, but noted that the County is suffering from an emergency medical service problem. He explained that at the north end of valley, they are served by a Missoula ambulance service.

Ben said that the volunteer Fire District will need full-time paid staff soon, although they are nowhere near that now.

Sheriff Chris Hoffman said that they were not, but noted that it is pretty easy to pass a fire levy.

Gary asked James if impact fees are for capital improvements and those must have a minimum of a 10-year lifespan.

James said that is correct, but the Board is talking about mitigation fees, not impact fees, so they are not limited by that.

Ben said that he saw 11 mule deer bucks on the Aspen Springs property Saturday morning. He commented that he saw no sign of elk and asked John Vore if that was due to the fact that the last 3 or 4 winters were mild.

John Vore said that the ridge they are talking about is sagebrush, grassland that elk and mule deer favor in the winter. He said he saw elk in spring flights within 1 ½ to 2 miles of the property. He noted that the winter range maps were drawn up in 1999, and it was known that if the lands were not constantly occupied elk habitat, they were certainly suitable for elk. He said that whether or not elk are there in the winter is up for question, but he did note that it will be used by elk in harsh winters.

Les asked if there are studies which indicate that just the presence of human activity causes elk to readjust their active grazing areas. He asked if over 20 years, they would be long gone.

John Vore said that the impact of development is greater than its footprint. He noted that domestic dogs range up to 2 to 3 miles away from subdivisions and research has

tracked the same dog 2 miles apart in the same day. He said that he is not against high density, but with that many people around, the impact to wildlife is greater, especially with people on trails.

Gary said that one of the mitigation suggestions was for the developer to remove the lots that were on top of the wildlife range. He asked if that was accepted, would it mitigate the winter range.

John Vore said it would not mitigate it 100%, but it would mitigate it a bit. He said that the 28 lots encroach into currently undeveloped winter range. He noted that there will still be 600 lots and they will still create impacts.

Dale asked the County Road Supervisor if he assesses impact fees and if the developer puts in internal subdivision roads that meet county standards, why the County does not maintain the roads after that.

Dave Ohnstad, Ravalli County Road Supervisor, said that there are 2 roads in the area that are currently County-operated and that will be operated by the County in the future. He said that interior subdivision roads are not accepted because they do not have connectivity and have no broader public function than to serve those homes. He noted that the County currently operates Lower Woodchuck Road to its terminus in Missoula County.

Dale said that the School District wants impact fees too. He noted that John McGee said his school buses will not pick up students on roads that are not county-maintained.

Gary explained that there are no impact fees in Ravalli County and that road fees are called pro-rata.

Dale asked if the County had discussed getting impact fees.

Gary said they had, but not for this subdivision.

Ben said it was a long walk from the beginning of the subdivision to the end of it. He asked the Superintendent if he would pick up students in that subdivision.

John McGee, Florence-Carlton School District Superintendent, said that if the subdivision has roads built to county standards, they would look at getting a bus in there safely. He said that he will not run a bus on roads that are not county-standard.

Ben asked Nick Kaufman if the subdivision map shows bus stops.

Nick Kaufman noted that all the roads in Aspen Springs will be built to AASHTO standards.

Ryan Salisbury said he did not design specific bus stops. He noted that turnouts were reviewed, but were not designed with the intent of being bus stops. He said that there are a couple pullouts that could be used, but he will leave that up to the people who create bus routes.

Ben asked how far it was from the entrance of the subdivision to the last cul-de-sac.

Ryan Salisbury said it was about a mile.

Dan said he will recognize the developer and his agents to continue their talk.

Nick Kaufman said he was from WGM Group and would like to present four short items and a summary.

Ryan Salisbury said that last week he submitted written reports by consultants and can answer questions about those if necessary. He showed a map of the subdivision with streets that had a design speed of 20 miles per hour or less. (See Attachment I, Roads with Design Speeds of 20 mph or Less) He noted that in reports, there were flash flooding concerns with the 28 lots above and 3 additional lots in the south central region of the subdivision. He explained that Ravalli County is not known for flash floods and if they do occur, they will happen toward the bottom of a drainage basin. He noted that the report submitted last week showed calculations to prove the lots were not in danger. He said that the lots in the 100-year-flood range were placed 30 feet away from the dangerous areas. He noted that the subdivision has drainage basins, and drainage easements could be created. He noted that streets and storm drainages are planned. He said that storm water will be retained in a pond. He said he did not agree with storm water concerns; his concerns when building a home is that water has a routing path, which was taken care of in the grading plans, and that the footings are on native soils.

Gary commented that the soil reports from Staff indicated that there were severe soils in Aspen Springs, but the developer's reports did not indicate severity. He asked WGM Group what type of construction techniques can be used to mitigate for severe soils.

Ryan Salisbury said that at final road design, a soil sample is taken. He said that for Phase One, they will test the soil for an R value, which determines how deep of a road section would be created. He said that sloughing soils are not present on this site. He said that the soils were marked as severe because of the slopes. He noted that they stayed off slopes greater than 25%. He said that the developer provided a grading plan and footings. He said that he was personally there for 50 test pits and he was confident in the soils on this site. He noted that since the subdivision regulations prohibit development on steep slopes, they might use geo-textile fabrics.

Gary asked if soil samples are taken for home building sites.

Ryan Salisbury said they could be, but the process was not typical. He said there might be one test sample for the entire subdivision. He said if an engineer has concerns with severe soils, they could do a footing drain or create a wider footing.

Jim Sylvester noted that he did not factor in a homestead exemption of 31%. He noted that the full taxes for an average home would be \$3,519 and the school tax would be \$557.

Ben asked about taxable values.

Jim Sylvester said that the State Department of Revenue gives the formula. He said that he started with the market value of \$170,000, factored in the homestead

exemption, and came up with the taxable market value, which would be \$117,300. He noted that the current tax rate is 3%.

Ben asked about the other taxes.

Jim Sylvester said that he did not have ready access to the specific levies in the Florence area, but said he could have it the following week.

Ben said he owns a home in Florence that is worth significantly more than the example from Aspen Springs, and he said he thought his school taxes were lower than that. He said that his total taxes were \$1,500.

Nick Kaufman said that the State of Montana contributes to schools on a per-student basis. He said that the developer could contribute up to \$300 per lot to the schools, if they could have a credit if impact fees were adopted. He also said that if mill levies were passed, the homeowners would pay for that as well.

James said that he has advised the County Commissioners and Paul Tischler that if subdivision exaction is required as a condition of approval and impact fees are later adopted, that the County should give a credit for fees already collected.

Nick Kaufman said he was told by someone that he has never seen elk on the property. He said that in 1996, there was a record snowfall and no elk used the property.

Steve Fisher, a wildlife biologist, said that Mr. Schrage ran sheep up on the property, but there have never been elk that low on Lower Woodchuck Road. He noted that at the July 5 hearing, a man who had 40 acres on adjacent property said he had not seen any elk signs. He noted that there were 371 lots approved to the east of the subdivision and 240 more lots were under review by Staff, totaling 611 lots. He explained that FWP said that the straight, diagonal line on the northeast of the subdivision is diagrammatic at best. He said that someone would have to look at the landforms to quantify that elk were there. He remarked that the developer left the entire ridge to the east part of the property as undeveloped. He said that the presence of people does not preclude use by elk. He noted that those areas left open in the subdivision will remain open forever. (See Attachment J, Elk Winter Range Existing & Proposed Development)

Gary said that the range includes mule deer. He said that mule deer are in the area and some wildlife occupies that land. He asked to see an open space map that does not include drain fields, drainage basins, slopes greater than 15%, or the natural gas pipeline.

Nick Kaufman explained that there are three types of open space; the first is natural open areas which include the long, open ridges (primary mule deer and elk habitat), and the long draw. He noted that their function is to include open space, wildlife habitat, and vegetation. He explained that buried gas lines do not inhibit open space, nor do buried drain fields. He said the other types of open space are dedicated parklands given to Ravalli County, and common areas. He explained that drain fields are buried features and many people have drain fields in their backyards. He drew playing field areas and areas open to the public on a map. He explained that public

areas will be maintained grasses, but they will not be dedicated to the County. (See Attachment K, Revised Lot Layout Exhibit with Markings)

Gary asked how much of each area there is compared to the entire development space.

Nick Kaufman said that of 393 acres, 140 are open space, which is about 42%. He noted that the developed park area is 16 acres. He commented that other developments provide cash-in-lieu of parkland and some have common areas. (See Attachment L, Elk Winter Range Habitat Map with Markings)

Gary asked if the open space area will be preserved through an irrevocable agreement or through conservation easements.

Nick Kaufman said they have not discussed those options, but they could come into play if there were advantages to them.

Les said the developer spent time at the last meeting talking about trails. He asked if the developed trail system will be open to the public.

Nick Kaufman said it will not be closed to the public. He explained that the Road Supervisor said that Ravalli County is no longer accepting roads. He said that roads, common areas, and trail systems will not be closed to the public. He remarked that they are subject to the developer and homeowner's association, who have the option of closing parks and trails to the public if there is vandalism.

Dale asked where the Orenco filters will be run.

Ryan Salisbury explained that the footprint of an Orenco station is 4 feet by 4 feet. He noted that 3 of those are needed for 50 homes. He said that the recirculation tank holds about 15,000 gallons. He said that the developer has to dedicate enough drain field area for replacement. He noted that they will all be underground, although he does not know the acreage that will be used.

Dale asked where the systems would be. He noted that at another subdivision he visited, the systems were exposed and were 6 feet by 10 feet.

Ryan Salisbury said that his systems would be 4 feet by 4 feet with separation between them. He explained that there are a couple different ways to install them, but if drain rocks are provided, they can be completely buried. He commented that they will design manholes flush with the grass.

Nick Kaufman noted that parks in the subdivision are in excess of eight acres.

Ryan Salisbury said he received the Park Board recommendation late in the subdivision process. He said that one of the cross sections of the trail along Lower Woodchuck Road that he presented at the previous hearing would not work because of site constraints. He noted that the developer is excited and willing to create a trail, and there will be one, although it will not be detached from the road. He asked the Board how to handle the issue as they finalize this design without this becoming new information. He noted it was unlikely the neighbors of the trail would grant an easement for creation of a detached trail. He explained that he found out today that

there was no safe way to provide for a detached trail. He said that the bike path would be an extended shoulder.

Bob said that was very unfortunate.

Dale remarked that there is no shoulder on the road now.

Ryan Salisbury said WGM Group has been talking with David Ohnstad of the Road Department and that they had submitted revised lot layouts for expanding the park. He noted that PCI is reviewing it and told him verbally that there were not any major concerns.

Ben asked if the detached trail will not work in some places, but will in others.

Ryan Salisbury said that was correct. He said that the path will be directly adjacent to the road and a similar elevation to the road. He noted that Highway 93 had constraints as well and higher volumes of traffic require more separation. He said that the likelihood of a pedestrian accident is low.

Ben asked how much of the area from the exit of the subdivision to Eight Mile Creek Road would be cut-and-fill.

Ryan Salisbury said about 50% would be.

Ben asked if the large pond in the eastern corner of property is part of Aspen Springs or not. He noted that fire helicopters dip water out of the pond.

Nick Kaufman answered that the pond is on an adjoining property owner's land, which is being transferred to Big Sky Development. He noted that their plan is to cluster homes on the eastern portion of the property.

Perry Ashby said that he received comments from the Park Board late in the game regarding the trail system. He noted that he is willing to do whatever is necessary within reason, and as long as it is safe. He commented that although Reserve Street has a sidewalk, people do not use it due to their perception of safety. He said that people are more likely to use trails in subdivisions because there is a sense of separation and security. He said that they are dealing with a constrained area on Lower Woodchuck Road, even though the road easement is 60 feet. He asked for help and direction.

Nick Kaufman said that this completes their new information and asked to give a summary at the end of public comment.

Ben said that he would rather see a trail than no trail because then people will walk on the edge of the road. He said that the Board approved some subdivisions where the distance between the road and the trail was a yellow line.

Dan said that the Board will specifically address this topic in their deliberations.

Karen noted that Staff has a confirmed possible hearing continuation date of Monday, July 24, at 7:00 p.m.

The Board indicated that there would be a quorum, although the entire Board could not attend.

Karen said she had received a 3-minute rule waiver from Candi Jerke and also that a Board member had asked if this development meets the definition of "cluster development."

The Board agreed they would like to know the definition.

Karen said the question was if Aspen Springs meets cluster development rules under state law. She explained that in order to have a cluster development under state law, the County has to have regulations which establish the size of lots, number of clusters, and minimum area to be preserved. She noted that Aspen Springs is not a cluster development under state law because the County does not have any cluster development regulations.

Dan noted that Candi Jerke requested a speaking time of 10 minutes.

Ben motioned to grant her 10 minutes.

Dale seconded the motion.

Candi indicated that she would be giving a rebuttal.

The Board voted (9-1) to approve Candi's waiver request.

Dan noted that the Board is reopening the public comment portion of the meeting and the 3-minute rule is in effect. He asked the public to limit comments to new information from tonight, not to repeat comments, and not to read comments to the Board.

Candi Jerke asked if she could pass out some sheets she had previously given to the Board. (See Attachment M, History of Ravalli County Valuation and Attachment N, Calc New Market Value - 2003) She noted that Jim Sylvester forgot the Homestead Credit in his previous calculations. She said that now he has corrected that part of his report, but he forgot the phase-in. She commented that she is an appraiser with the State of Montana and has worked in Ravalli and Missoula Counties. She said that in 2002, an average home in the county was \$132,100. She noted that reappraisals are only done every 6 years or so. She asserted that Jim Sylvester missed the phase-in, where the state government phases in taxes at 1/6 per year. She noted that from 2003 to 2008, the taxable value moves from \$2,824 to \$2,624. She said that over 6 years, a normal home, if the mill levy does not change, will go down in value. She said that since Wesmont said they would create affordable houses, she used \$2,700 as the taxable value. She explained that since Florence passed a mill levy, school taxes will increase. She noted that for an average house, the School district will receive \$475, the Fire District will receive \$9, the County will receive \$311, and out of the County's money, public safety will receive \$56. She said that the variance requests were made to be able to provide affordable housing. She said that people from Missoula County will be better able to qualify for the housing in Ravalli County since qualifications are based on the prevailing income in the County. She said that people in Ravalli County would not be as easily qualified. She noted that the deed restrictions and covenants do not say anything about affordable

housing and Perry can construct whatever houses he wants. She said that Jim Sylvester's figures were off and taxes are about ¼ of the figures he used. She noted that for the first 38 houses to start paying taxes, they would have to be built in 2007. She explained that houses are assessed on January 1 of each year and are assessed at however complete they are on that date. She said that if someone built a house today, they would not receive a tax bill until November 2007. She noted that taxes are always a year or two behind, which is why the County is considering impact fees.

Dale asked where he could buy a \$132,000 house that is livable.

Candi Jerke said that is what an average home sold for in 2002. She said that there are a few out there, but they are mostly in towns. She said that Aspen Springs really does not offer affordable housing.

Chip said that he frequently hears that people pay for growth through taxes. He remarked that taxes are a function of the appraisal process. He asked that if the legislature used the process to even out taxes, then have they limited Sheriff Hoffman's budget due to the appraisal process.

Candi Jerke said that was true.

JR asked how this information differs from that of any other house in Ravalli County.

Candi Jerke said it was all the same process and taxes are based on market value.

JR noted that Ben said his property would be taxed at less even though it was more expensive. He noted that Ben owns multiple acres and that lands with agricultural exemptions are not taxed the same as a home on half an acre.

Candi Jerke said that any property over 20 acres gets a tax break, especially those with agricultural exemptions.

Steve Hall said that impact fees are just another funding tool and they will promote them as such. He said that Commissioner Greg Chilcott said impact fees were not a panacea. He said that he has an email from Sheryl Consort which said that DEQ has sent Wesmont 4 denial letters. (See Attachment O, Email from Sheryl Consort) He read from Section 3-1-4, Finding 7 from the County's Subdivision Regulations, which discusses negative effects of a subdivision that could be mitigated. He discussed letters from Jim Lynch from the Montana Department of Transportation and Governor Schweitzer, which state that there is no mitigation proposed for Highway 93 and Eastside Highway. (See Attachment P, Letters from Jim Lynch and Brian Schweitzer) He said that he thinks weed infestations have contributed to lack of elk on west-facing slopes in the area. He explained that leafy spurge causes ulcerations in the mouth and throat of an elk. He said that although there are not elk there now, he hopes that the weeds will subside and wildlife will come back. He remarked that leafy spurge cannot be stopped, but it can be controlled.

Sarah McMillan said she is an attorney who represents Florence Coalition Against Aspen Springs and Bitterrooters for Planning. She mentioned Sections 8-1-3 and 8-1-7 in the County's Subdivision Regulations. She discussed a Montana Supreme Court case which said that variances are to grant relief for property owners by the strict

following of the law. She said it was decided that three conditions must be present for the granting of a variance: (1) the variance must not be contrary to public interest; (2) literal enforcement of issues like zoning must result from undue hardship from conditions unique to the property; and (3) the spirit of the ordinance must be observed and substantive justice must be done. She read Section 8-1-3 and said that the variances have to be minor deviations. She said the issue is that the variances requested are not from undue hardship and do not satisfy all of the variance criteria, not just the 5 criteria.

Gail Knox said she was from Corvallis and that the Board is putting the cart before the horse. She said that the County does not have subdivision regulations and they do not have assessment of water capacity or carrying capacity for that area, let alone the County. She said that the County does not have an accurate understanding of sewage capacity or alternative plans to do that. She recommended that until the Board has those things under control and understood and they hire a planner who understands regional planning, they need to stop looking at developments and sit down and decide on zoning, water, sewage, and various types of developments.

Kathleen Driscoll said to clarify her statements at the July 5 meeting, the mills are \$62,245. She noted that Missoula County charges two and a half times more. She noted that earlier today, the County Commissioners decided not to put \$25,000 into an impact fee study because the state legislature might look again at Senate Bill 185. She suggested that the County does not have a lot of income now and they are putting impact fees even farther into the future. She explained that the legislature holds down how many mills the County can charge out. She told JR that all houses are not the same in the first 3 to 6 years.

Glen Kinsley said he has lives in a small subdivision in Stevensville since 1977. He said that his dog ran loose and he did not mow his weeds. He said he realized everything he did had a negative impact on the neighborhood and community. He said that nobody has addressed how many dogs are moving in. He noted that cats love birds and catch them and that dogs can eat wildlife. He said that he has heard people complain about 5-acre weed patches. He said that although 5 acres is too small to farm and too big to mow, his neighborhood is nice and people have horses, raise goats, and use the land. He said that the subdivision will have an impact on the Valley's agricultural base. He also suggested that dogs could make a mess of someone's sheep.

Dale told Gail Knox that the County's Sanitarian told him that the State of Montana reviews subdivisions this size because the County cannot handle them. He noted that the applicant has to prove they have water to the DNRC. He said that he has dug holes on the property and agrees that it is prime property, but does not know if it can handle such a large capacity.

John Carbin said he was at the previous meetings and said that the Board is admittedly overwhelmed with the volume of material facing them. He noted that one result is that they have no time to work on long-range planning or zoning, which will alleviate a lot of difficulty and friction the County is now facing. He said that he believed planning should be part of the deliberation. He commented that the Board might recommend slowing down somehow due to the onslaught of worthy and sometimes difficult development proposals.

Pam Merwyn said that a lot of people who moved here came here for beauty, wildlife, and to keep down stress. She said that anything trying to get onto next election's ballot to save open space will be a moot point if these subdivisions are passed. She said there will not be land for builders to build the next 400 houses because they will already be consumed. She told the developer that he has lovely plans, but they just do not belong here. She said that this is one of three subdivisions that Wesmont is doing in the Valley. She commented that after the entire Valley is covered in houses and some have been taxed out of their homes, the County still will not have the money to take care of services. She said that the amount of subdivisions being reviewed is so large that the Board cannot handle the volume and it is not fair to Staff. She proposed a moratorium to gear up and get everything prepared to handle large subdivisions. She remarked that if the developer had to dig that deep to find water, they will not have enough to sustain the subdivision. She noted that subdivisions created in the mid-1990s pushed back wildlife. She noted that young families in the Valley do not exist because they leave. She said when they return, what they loved about the area is gone. She said that it is a misnomer to say that people own homes because all they own is a mortgage. She said that the banks will get a bone on these subdivisions. She said a lot of people moved here to work in the construction industry. She explained that when the Valley is built-out, there will not be jobs left for construction workers. She recommended slowing down growth so that the infrastructure can handle it.

Gail Knox said she did not understand what Dale said about the state.

Dale said that the State reviews water requests and the developer has to prove to the DNRC that they have water.

Cam Stringer from Geomatrix said that the applicant has to meet two requirements: prove public water supply with the DEQ for a permit and prove water supply to the DNRC for water rights. He said for the DNRC, they have to produce maximum day demand and for the DEQ, they have to produce the maximum day demand with one well out of service.

Gail Knox asked if there were a limited number of wells for the development.

Cam Stringer said that they also have to test each individual well at 1 ½ times its capacity. He noted that wells will be on a distribution system.

Gail Knox asked if the wells will affect neighbors.

Cam Stringer said they will not and that they are waiting for production well data.

Gail Knox asked if the subdivision will be handicapped accessible.

Dan said that public comment is closed for this meeting and will reconvene on July 24 at 7:00 p.m.

Nick Kaufman said that regardless of Wesmont, both TischlerBise and the State Census data indicate that 400 to 500 households are created each year in the County. He stated that 1,074 lots were reviewed by the Board over the past few years. He alleged that Aspen Springs is the focal point of a discussion that should have been done a long time ago. He asked if the County's residents will be housed

in 1-acre parcels, or in another pattern. He said that rural parcels next to smaller lots can be enjoyed regardless and it does not diminish the rural lifestyle. He noted that Riverview Orchards' density was doubled from 10-acre tracts to 5-acre tracts. He explained that there is sprawl development on Highway 93. He said that he wants to look at dispersing housing needs for population growth with developments like Aspen Springs. He commented that the development is suitable physically and culturally.

He noted that every single fee charged to a developer is forward-shifted to the homebuyer. He said that impact fees tax a population that is not here yet. He said the homebuyer will pay the \$300 school donation, \$100 sheriff donation, \$800 roundabout donation, and Highway 93 mitigation, and pay for it twice on a 30-year mortgage. He said that if new housing stock increases because of impact fees, the other neighbors receive a windfall gain because house prices rise with the market. He asked the Board to be careful with impact fees because they are not the best way to get money. He said that only \$56 of an average home's yearly taxes goes into the public safety fee; he noted that Wesmont volunteered to almost double that by offering \$100. He said that the new home pays nearly 3 times to the schools than what an existing home would pay. He explained that the Aspen Springs homeowner will pay state property taxes, and the State will give back some of the money to the school based on the number of students enrolled. He said that the new mill levy will help pay for the school. He reported that Wesmont proposed \$300 extra dollars, plus future homeowners will be subject to mill levies. He said that the Florence-Carlton School currently has problems. He asked what will happen when TischerBise says they get 400 new homes in Florence.

He asked if the Board wants to put up something that will eat the land. He said that the cost of removing 50+ lots suggested by FWP will be over \$1 million. He told the Board that this is not crucial winter habitat. He noted that the habitat is already diminished by the parcels around the property. He explained that the County does not have enough housing. He noted that over the past 3 ½ years, the average lot size has been about 2 ½ acres. He noted that the 77% of government land will always stay as open space, but to keep agricultural lands, the County will have to use a different pattern than agricultural-consuming lots. He said that the elk winter range is marginalized by the area around the subdivision. He noted that their two biologists said that it was not elk winter habitat. He asked the Board to weigh human needs and animal needs before taking away \$1 million. He said he spoke with John Vore, who has a general map of the elk habitat. He noted that Aspen Springs is on the edge of that line.

He said that although the Sheriff needs new staff now, Wesmont cannot do anything about that. He noted that Wesmont offered a satellite office and \$100 per lot. He declared that their voluntary mitigation is not limited to capital improvements. He said that if it becomes a habit of developers to contribute to the Sheriff, it might become a source of revenue for the County.

He said that about 40% of the homes in Aspen Springs will be affordable; the rest will be average or above-average homes. He noted that the lots recommended for removal are the larger lots. He explained that the affordable housing meets State Board of Housing requirements. He said that only one cat and one dog will be allowed on the lots, which will be enforced by the homeowner's association. He noted that this is the only subdivision that Wesmont is working on in this County. He commented that this subdivision should be a catalyst for the County. He said that

this land shows it is physically capable of providing a water system, sewer system and transportation system. He said that Wesmont demonstrated the ability to work with the School District and Sheriff. He said that the Board now knows the land is capable of being developed and that it is suitable for development.

Stuart Brandborg asked if people at this meeting can examine the documentation submitted tonight and offer testimony at the next meeting.

Dan said they could.

Stuart Brandborg said he represents Bitterrooters for Planning and said that if the Board approves the subdivision, they will open the gates to 3 to 5 other subdivisions that will destroy the way of life in the Valley. He noted that some 600-700 people have testified about what they want to preserve. He asked the Board to get a handle on the process through interim zoning. He said that will give the Board a year or two to stop the proposals, gain Staff, and let the Board get their feet on the ground to assess what they really face. He asked the Board to take this into account because they cannot face a tidal wave. He said that people will appear, speak from the heart, and ask for relief. He said that the County is not in a housing crisis. He said that Aspen Springs is an effort into stampeding the Board into making a decision before they are ready. He asked the Board to consider interim zoning.

James said that he heard testimony tonight from Nick Kaufman and Steve Fisher that referenced a map that seemed to call for consideration of cumulative impacts. He said he was advised that cumulative impact review was not appropriate.

John Tabaracci said as he sat through 3 public hearings, he heard a lot of people address cumulative impacts. He noted that he has read Sarah McMillan's memo and asked to see James' position in writing before he answers the question.

James said he has not given his position in writing. He referred to MCA 76-3-608, which says that the Board will review "a" subdivision and "the" subdivision based on criteria.

John Tabaracci said he did not see where that code would out-and-out prohibit discussion of cumulative impacts. He noted that the Board has to consider cumulative impacts on roads.

James said that he should review this issue before the next meeting and noted that the Board might want to consider how cumulative impacts are reviewed in subdivisions.

Nick Kaufman stated that number 5 of the 6 criteria addresses effects on wildlife and wildlife habitat. He asked the Board to consider his testimony and those of the experts to consider the quality of the wildlife habitat, not cumulative impacts.

Les said that the application mentioned a homeowner's association, but he could only find a reference to a homeowner's association six months after the last unit is built. He asked if there was a written document describing the homeowner's association that will go into effect after six months.

Nick Kaufman explained that prior to turning over the lands to a homeowner's association, the covenants allow the builder to own the subdivision so it can be developed the way it is represented to the Board and so that it will maintain value. He said that the developer has a primary investment and operates as the homeowner's association until he turns it over as lots are sold.

Gary asked, based on that, if the community is part of the homeowner's association or if the developer is the sole authority while the builder retains ownership.

Nick Kaufman said that the developer is the head of it. He noted that a neighborhood is a social system and the developer has to listen to the people in the system.

Gary asked if the developer would publish the homeowner's association bylaws so that future homeowners would know the criteria.

Nick Kaufman said that when the developer records covenants and files bylaws, they would incorporate the homeowner's association at the same time.

Ryan Salisbury asked if it was possible for the Board to ask questions of the developer's agents here tonight. He asked if the agents needed to return to following meetings.

Dan said that if the Board accepts further testimony and as the Board deliberates, they will want to ask questions of the consultants.

Steve Hall asked if he could give a rebuttal and speak to the Board as a group since he feels he represents the perspective of his neighbors and people he talked to.

Dan said he preferred waiting until the next hearing.

Bill Knox said he sent a memo to the Board and that he was concerned with public health and safety issues. He mentioned the book Collapse and said that on page 53 of the book, it mentions that the County does not have adequate water and sewage testing. He asked for an independent source to say what the effects of water usage and sewage treatments are. He noted that the waste from the sewage treatment system will eventually go into the Bitterroot River. He asked the Board to ask the County Commissioners for a moratorium on subdivisions and time to look at zoning. He asked them for a better development plan.

7. **Suspend Public Hearing Until Next Meeting**

8. **Next Regularly Scheduled Meeting:** July 19 at 3:00 p.m.

Gunshy Ridge III (Bitterroot Valley Development, LLC) – Public Hearing
Hidden View Estates Major Deviation (Kearns) – Public Hearing
East End Lot 1, AP (Kwapu) – Public Hearing
Centennial Lot 17, AP (K&J Development) – Public Hearing
Castle Heights (Greer) – Public Hearing

9. **Adjournment:** **Dan** adjourned the meeting at 9:48 p.m.